



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

Mitchell E. Daniels, Jr.
Governor

Thomas W. Easterly
Commissioner

100 North Senate Avenue
Indianapolis, Indiana 46204
(317) 232-8603
Toll Free (800) 451-6027
www.idem.IN.gov

October 23, 2008

NOTICE OF DECISION

Please be advised that the Commissioner of the Indiana Department of Environmental Management (IDEM) entered into an Agreed Order to resolve a Permit Appeal with Pollution Control Industries, Inc. (PCI) located in East Chicago, Indiana. PCI was issued a Hazardous Waste Permit Renewal on August 31, 2006 to operate a hazardous waste treatment and storage facility. On September 18, 2006, PCI filed a Petition for Administrative Review, Request for Adjudicatory Hearing, and Request for Stay of Effectiveness (Petition). The terms of this Agreed Order resolve every issue raised by PCI in its Petition.

If you wish to challenge this Agreed Order, IC 13-15-6-1 and IC 4-21.5-3-7 require that you file a Petition for Administrative Review. If you seek to have the effectiveness of the Agreed Order stayed during the Administrative Review, you must also file a Petition for Stay. The Petition(s) must be submitted to the Office of Environmental Adjudication at the following address within fifteen days of your receipt of this notice:

Office of Environmental Adjudication
Government Center North, Room 501
100 North Senate Avenue
Indianapolis, Indiana 46204-2241

The Petition(s) must include facts demonstrating that you are either the applicant, a person aggrieved or adversely affected by the decision, or otherwise entitled to review by law. Identifying the decision for which you seek review by cause number, name of the applicant, location, or date of this notice will expedite review of the petition. Additionally, IC 13-15-6-2 requires that your Petition include:

1. The name and address of the person making the request.
2. The interest of the person making the request.
3. Identification of any persons represented by the person making the request.
4. The reasons, with particularity, for the request.
5. The issues, with particularity, for the request.
6. Identification of the permit terms and conditions which, in the judgment of the person making the request, would be appropriate in the case in question to satisfy the requirements of the law governing permits of the type granted or denied by the Commissioner's action.

Pursuant to IC 4-21.5-3-1(f), any document serving as a petition for review or review and stay must be filed with the Office of Environmental Adjudication. Filing of such a document is complete on the earliest of the following dates:

1. The date on which the petition is delivered to the Office of Environmental Adjudication (OEA).
2. The date of the postmark on the envelope containing the petition, if the petition is mailed by United States mail; or
3. The date on which the petition is deposited with a private carrier, as shown by a receipt issued by the carrier, if the petition is sent by private carrier.

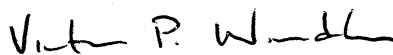
Pursuant to IC 4-21.5-3-3, the Office of Environmental Adjudication will provide you with notice of any pre-hearing conferences, preliminary hearings, hearings, stays, or orders disposing of the review of this decision if you submit a written request to the Office of Environmental Adjudication at the above address. If you do not provide a written request to the Office of Environmental Adjudication, you will no longer be notified of any proceedings pertaining to this decision.

For further information, please see the attachment. If you have any procedural or scheduling questions regarding your petition(s), you may contact OEA at 317/232-8591.

Copies of the Agreed Order and the Notice of Decision may also be viewed on the IDEM web site at: www.IN.gov/idem/permits/land/notices/index.html

For further information regarding this notice, please call (800) 451-6027, press 0, and ask for Ruth Jean at extension 2-3398, or call 317/232-3398.

Sincerely,



for

Thomas E. Linson, Chief
Permits Branch
Office of Land Quality

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Enclosure

What if you are not satisfied with this decision and you want to file an appeal?

Who may file an appeal?

The decision described in the accompanying Notice of Decision may be administratively appealed. Filing an appeal is formally known as filing a "Petition for Administrative Review" to request an "administrative hearing."

If you object to this decision issued by the Indiana Department of Environmental Management (IDEM) and are: 1) the person to whom the decision was directed, 2) a party specified by law as being eligible to appeal, or 3) aggrieved or adversely affected by the decision, you are entitled to file an appeal. (An aggrieved or adversely affected person is one who would be considered by the court to be negatively impacted by the decision. If you file an appeal because you feel that you are aggrieved, it will be up to you to demonstrate in your appeal how you are directly impacted in a negative way by the decision).

The Indiana Office of Environmental Adjudication (OEA) was established by state law – see Indiana Code (IC) 4-21.5-7 – and is a separate state agency independent of IDEM. The jurisdiction of the OEA is limited to the review of environmental pollution concerns or any alleged technical or legal deficiencies associated with the IDEM decision making process. Once your request has been received by OEA, your appeal may be considered by an Environmental Law Judge.

What is required of persons filing an appeal?

Filing an appeal is a legal proceeding, so it is suggested that you consult with an attorney. Your request for an appeal must include your name and address and identify your interest in the decision (Or, if you are representing someone else, his or her name and address and their interest in the decision). In addition, please include a photocopy of the accompanying Notice of Decision or list the permit number and name of the applicant, or responsible party, in your letter.

Before a hearing is granted, you must identify the reason for the appeal request and the issues proposed for consideration at the hearing. You also must identify the permit terms and conditions that, in your judgment, would appropriately satisfy the requirements of law with respect to the IDEM decision being appealed. That is, you must suggest an alternative to the language in the permit (or other order, or decision) being appealed, and your suggested changes must be consistent with all applicable laws (See Indiana Code 13-15-6-2) and rules (See Title 315 of the Indiana Administrative Code, or 315 IAC).

The effective date of this agency action is stated on the accompanying Notice of Decision (or other IDEM decision notice). If you file a "Petition for Administrative Review" (appeal), you may wish to specifically request that the action be "stayed" (temporarily halted) because most appeals do not allow for an automatic "stay." If, after an evidentiary hearing, a "stay" is granted, the IDEM-approved action may be halted altogether, or only allowed to continue in part, until a final decision has been made regarding the appeal. However, if the action is not "stayed" the IDEM-approved activity will be allowed to continue during the appeal process.

(See reverse side)

Where can you file an appeal?

If you wish to file an appeal, you must do so in writing. There are no standard forms to fill out and submit, so you must state your case in a letter (called a petition for administrative review) to the Indiana Office of Environmental Adjudication (OEA). Do not send the original copy of your appeal request to IDEM. Instead, send or deliver your letter to:

The Indiana Office of Environmental Adjudication
Government Center North, Room 1049
100 North Senate Avenue
Indianapolis, IN 46204

If you file an appeal, also please send a copy of your appeal letter to the IDEM contact person identified in the Notice of Decision, and to the applicant (person receiving an IDEM permit, or other approval).

Your appeal (petition for administrative review) must be received by the Office of Environmental Adjudication in a timely manner. The due date for filing an appeal may be given, or the method for calculating it explained, on the accompanying Notice of Decision (NOD). Generally appeals must be filed within 18 days of the mailing date of the NOD. To ensure that you meet this filing requirement, your appeal request must be:

- 1) Delivered in person to the OEA by the close-of-business on the eighteenth day (If the 18th day falls on a day when the Office of Environmental Adjudication (OEA) is closed for the weekend or for a state holiday, then your petition will be accepted on the next business day on which OEA is open.), or
- 2) Given to a private carrier who will deliver it to the OEA on your behalf, (and from whom you must obtain a receipt dated on or before the 18th day), or
- 3) For those appeal requests sent by U.S. Mail, your letter must be postmarked by no later than midnight of the 18th day, or
- 4) Faxed to the OEA at 317/233-9372 before the close-of-business of the 18th day, provided that the original signed "Petition for Administrative Review" is also sent, or delivered, to the OEA in a timely manner.

What are the costs associated with filing an appeal?

The OEA does not charge a fee for filing documents for an administrative review or for the use of its hearing facilities. However, OEA does charge a ten cent (\$.10) per page fee for copies of any documents you may request. Another cost that could be associated with your appeal would be for attorney's fees. Although you have the option to act as your own attorney, the administrative review and associated hearing are complex legal proceedings; therefore, you should consider whether your interests would be better represented by an experienced attorney.

What can you expect from the Office of Environmental Adjudication (OEA) after you file for an appeal?

The OEA will provide you with notice of any prehearing conferences, preliminary hearings, hearings, "stays," or orders disposing of the review of this decision. In addition, you may contact the OEA by phone at 317/232-8591 with any scheduling questions. However, technical questions should be directed to the IDEM contact person listed on the Notice of Decision.

Do not expect to discuss details of your case with the OEA other than in a formal setting such as a prehearing conference, a formal hearing, or a settlement conference. The OEA is not allowed to discuss a case without all sides being present. All parties to the proceeding are expected to appear at the initial prehearing conference.

STATE OF INDIANA)
)
COUNTY OF MARION)

BEFORE THE INDIANA OFFICE OF
ENVIRONMENTAL ADJUDICATION

IN THE MATTER OF:

OBJECTION TO CERTAIN TERMS AND)
CONDITIONS CONTAINED IN THE PART B)
ISSUED TO POLLUTION CONTROL)
INDUSTRIES, INC.)
EAST CHICAGO, LAKE COUNTY, INDIANA)
EPA I.D. NO. IND 000 646 943)

CAUSE NO. 06-S-J-3787

AGREED ORDER

Pollution Control Industries, Inc. ("PCI" or "Permittee") and the Indiana Department of Environmental Management ("IDEM") (collectively, the "Parties") desire to settle and compromise this action without hearing or adjudication of any issue of fact or law and consent to the following Findings of Fact and Order.

- I. On August 31, 2006, IDEM issued a Notice of Decision granting a Part B hazardous waste permit renewal ("Permit") to PCI, EPA I.D. No. 000646943, located in East Chicago, Indiana. PCI received the Notice of Decision on September 5, 2006.
- II. No later than September 19, 2006, PCI timely filed a Petition for Administrative Review, Request for Adjudicatory Hearing, and Request for Stay of Effectiveness ("Petition") addressing certain conditions in the Permit.
- III. The parties have conferred on numerous occasions in an effort to resolve the issues raised in the petition.
- IV. This Agreed Order ("Order") shall be effective ("effective date") when it has been fully executed by IDEM and PCI.

V. Exhibit 1 of this Order contains the modified portions of the Permit that incorporate all of the revisions agreed to by the Parties. The Permit modifications, as reflected in Exhibit 1, shall be effective upon the effective date of the Order.

VI. The following subparagraphs contain the revisions to the Permit that have been agreed to by the Parties as well as any clarifications that the Parties have agreed will govern specific terms of the Permit as revised.

A. Regarding the appeal of Permit Condition VII.B.2, page 44 of 46, PCI completed repairs and construction of the container storage area pursuant to the terms of the Joint Agreement Regarding Stay that was filed with the Office of Environmental Adjudication on October 11, 2006 and, on July 12, 2007, submitted a letter to IDEM notifying it that the construction was completed. Therefore, the Parties agree to delete Permit Condition VII.B.2.

B. Regarding the appeal of Permit Conditions VII.C.1., VII.C.2, and VII.C.3, pages 45-46 of 46, the Parties agree to replace Permit Conditions VII.C.1., VII.C.2. and VII.C.3, with the following:

1. *PCI shall inspect and determine the compressed gas cylinders approximate content before processing.*
 - a. *PCI shall develop a standard operating procedure to minimize the potential for a future fire in Area 5 associated with the treatment of compressed gas cylinders by determining the compressed gas cylinders approximate content before processing. This procedure shall be submitted to IDEM for approval within 30 days.*

C. Regarding the appeal of Item AC, Section D-1a(2), page 22 of 59 of the Attachment D portion of the Permit, the Parties agree to remove the last paragraph in Item AC, Section D-1a(2). In addition, the Parties agree that the last paragraph

of Section D-1a, Containers with Free Liquids, page 3 of 59 of the Attachment D portion of the Permit shall be deleted.

D. Regarding the appeal of Permit Condition VI.D.2.b, page 36 of 46 of the Permit, the Parties agree to replace Permit Condition VI.D.2.b with the following:

b. RFI Implementation

Within ninety (90) days of the IDEM's written approval of the RFI Workplan, the Permittee shall implement the RFI Workplan according to the terms and schedule in the approved RFI Workplan. If the Permittee is unable to commence implementing the RFI Workplan within ninety days, the Permittee shall request an extension from the Commissioner which includes the reason for the delay.

VII. Upon execution of this Agreed Order and in accordance with Indiana Code § 4-21.5-3-5, IDEM will issue a Notice of Decision (NOD) which informs the public of this Agreed Order and of the procedure for appealing the revisions of the Permit agreed to by the Parties as part of this Agreed Order.

VIII. The terms of this Agreed Order resolve every issue raised by PCI in its Petition. Upon the expiration of the time period in the NOD pursuant to Indiana Code § 4-21.5-3-5 for appealing the revisions of the Permit, and provided that no appeals have been made within that time period, the Permit terms which have been revised under this Agreed Order shall become effective, and PCI shall withdraw its Petition.

TECHNICAL RECOMMENDATION:

Department of Environmental Management

By: Victor P. Windle

Name: Victor P. Windle

Office of Land Quality

Date: Oct. 20, 2008

COUNSEL FOR DEPARTMENT

OF ENVIRONMENTAL MANAGEMENT

By: April D. Lashbrook

April D. Lashbrook

Office of the Attorney General

Date: Oct. 14, 2008

Pollution Control Industries, Inc.

By: [Signature]

Printed: Tita Lagrimas

Title: Executive VP of Regulatory Affairs

Date: July 25, 2008

COUNSEL FOR POLLUTION

CONTROL INDUSTRIES, INC.

By: [Signature]

Michael Scanlon

Barnes & Thornburg

Date: August 8, 2008

APPROVED BY THE INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

THIS 20TH DAY OF OCTOBER, 2008.

FOR THE COMMISSIONER:

Bruce H. Palin
Bruce H. Palin, Assistant Commissioner
Office of Land Quality

EXHIBIT 1

2. RCRA Facility Investigation (RFI)

The Permittee shall conduct an RFI to thoroughly evaluate the nature and extent of the release of hazardous waste(s) and hazardous constituent(s) from all SWMUs and AOCs identified as requiring an RFI.

a. RFI Workplan

The Permittee shall submit a written RFI Workplan to the Section Chief within ninety (90) days after written notification by the Section Chief that further investigation is necessary. The IDEM will approve, modify and approve, or disapprove and provide comments on the Workplan in writing to the Permittee. Within sixty (60) days of receipt of such comments, the Permittee shall either modify the workplan in response to the comments, submit an explanation why a revision is not necessary, submit a new workplan for the Commissioner's review, or perform a combination of these options.

b. RFI Implementation

Within ninety (90) days of the IDEM's written approval of the RFI Workplan, the Permittee shall implement the RFI Workplan according to the terms and schedule in the approved RFI Workplan. If the Permittee is unable to commence implementing the RFI Workplan within ninety days, the Permittee shall request an extension from the Commissioner which includes the reason for the delay.

c. RFI Report

Within ninety (90) days after the completion of the RFI, the Permittee shall submit an RFI Report to the Section Chief. The RFI Report shall describe the procedures, methods, and results of the RFI. The report must contain adequate information to support further corrective action decisions at the facility. After the Permittee submits the RFI Report, the IDEM shall either approve or disapprove the report in writing. If the IDEM disapproves the report, the Section Chief shall notify the Permittee in writing of the deficiencies. The Permittee has thirty (30) days after receipt of the IDEM's comments to submit a revised RFI Report to the Section Chief.

VII. COMPLIANCE SCHEDULE CONDITIONS

- A. For container storage areas CSA 1, 3 Dock - Front, and 7 (A-2 and A-3), PCI must do the following:
1. Within one (1) year of the effective date of this permit, PCI must begin construction of the secondary containment systems.
 2. Fifteen (15) days prior to beginning construction, PCI will notify the IDEM of the intended construction date.
 3. Within one (1) year of the beginning construction, PCI must complete construction of revised secondary containment systems.
 4. Within fifteen (15) days after the installation of the secondary containment system is complete, PCI shall submit to the IDEM a letter stating the secondary containment system has been installed in accordance with Section D of this Permit.
 5. PCI may begin to store liquids in the container storage area, and the maximum permitted capacity for the storage of free liquids will be increased for the facility as per the following table, after the installation of the secondary containment systems and once the following has occurred,:
 - a. PCI has received approval from IDEM of the installation of secondary containment system or
 - b. fifteen (15) days has passed since the submittal of the letter indicating that the secondary containment system has been installed without having contact from the IDEM indicating its plans to inspect or request additional information on the secondary containment system.

Container Storage Area	Capacity (gallons)
Area 1	66,000
Area 3 Dock Front	13,200
Area 7 7-A2	12,320
7-A3	26,400

- B. In December 2005, an incident occurred in Area 5 at PCI. As a result of this incident, Area 5 was damaged and need to be repaired as per Compliance Schedule Item B. Area 5 was used for the storage and treatment of lab pack containers and compressed gas containers. To prevent a recurrence of the incident, PCI must do the following:
1. PCI shall inspect and determine the compressed gas cylinders approximate content before processing.
 - a. PCI shall develop a standard operating procedure to minimize the potential for a future fire in Area 5 associated with the treatment of compressed gas cylinders by determining the compressed gas

cylinders approximate content before processing. This procedure shall be submitted to IDEM for approval within 30 days.

- C. For the proposed Sub-Areas 5 and 6 of Container Storage Areas Area 5 PCI must do the following:
1. Within one (1) year of the effective date of the 10/06 permit modification, PCI must begin construction of the sub-area.
 2. Fifteen (15) days prior to beginning construction, PCI will notify the IDEM of the intended construction date.
 3. Within one (1) year of the beginning construction, PCI must complete construction of the sub-area.
 4. Within fifteen (15) days after the construction of the sub-area is complete, PCI shall submit to the IDEM a letter stating the sub-area has been constructed in accordance with Section D of this Permit.
 5. After the construction to the sub-area are complete, the secondary containment systems is installed and once the following has items have occurred, PCI may begin to store wastes (including waste with free liquids) in the container storage area, and the maximum permitted capacity for the storage of free liquids for the facility will be increased as per the following table:
 - a. PCI has received approval from IDEM of the construction of the sub-area and installation of the secondary containment system, or
 - b. fifteen (15) days has passed since the submittal of the letter indicating that the container storage area has been constructed/repared without having contact from the IDEM indicating its plans to inspect or request for additional information on the secondary containment system.

Container Storage Area	Capacity (gallons)
Area 5	
Sub-Area 5	7,920
Sub-Area 6	7,920

- D. For the Tank 1R and the modified secondary containment of Area 2, PCI must do the following:
- a. Within one (1) year of the effective date of the August 2008 permit modification; PCI must begin construction/installation of the unit.
 - b. At least fourteen (14) days prior to beginning construction/installation of the unit, PCI must notify the IDEM of the anticipated construction/installation date.
 - c. Within one (1) year of the beginning construction, PCI must complete construction/installation of the unit.
 - d. Within thirty (30) days from the installation of the Tank 1R, PCI must perform the leak test and installation inspection on the Tank 1R in accordance with 40 CFR 264.192.
 - e. Within fifteen (15) days of completing the leak test and installation inspection on the Tank 1R, PCI must submit the results for the IDEM approval.
 - f. If fifteen (15) days after PCI has notified the IDEM in writing of the construction/installation of the unit has passed without the IDEM indicating the need for an inspection or additional information, PCI is authorized to use the unit. Additionally, the plant capacity for the storage/treatment of wastes in Tanks will be increased by 11,952 gallons.
- E. Within ninety (90) days, PCI will update the financial assurance to the modified closure cost estimate specified in Attachment I.

The above formulae reduces down to the following when dealing with only "normal" fifty-five gallon drums and "lab pack" fifty-five gallon drums storing free liquids which was used to develop Table D-2:

$$(55)x_1 + (30)x_2 \leq V_{\text{available}}$$

$$x_1 + x_2 \leq x_{\text{total}}$$

Where,

x_1	=	Number of "normal" 55 gallon drums
x_2	=	Number of "lab pack" 55 gallon drums
x_{total}	=	Maximum number of 55 gallon drums allowed in area (see Table D-1)

The maximum capacity of wastes stored in containers onsite will be tracked and documented in PCI's operating logs. All containers (i.e. off-site waste, generated waste, and non-hazardous waste) are counted towards the maximum design capacity of each individual container storage area. However, only containers of hazardous waste, excluding PCI generated waste, are counted toward the total permitted facility capacity.

Drawing Numbers B-2-97 and B-3-97 show the container storage areas. Detailed drawings of each area are also included in this permit. The drawing number corresponding to each container storage area is provided in Table D-1.

The specific hazardous wastes that are handled in the container storage/treatment operations are listed in Appendix C.4 and the approved Part A. The hazardous characteristics of these waste streams are provided in Appendix C.4, 40 CFR 261, and sections of the Waste Analysis Plan. No Nuclear Regulatory Commission regulated or controlled radioactive wastes will be accepted.

The northwest section of Area 6 contains a dry chemical suppression system and are predominantly (but not exclusively) used for the storage of lab pack containers. Area 5 is also subdivided into 10 sub-areas: 6 storage areas and 4 booths which are used for the treatment of the lab pack containers. The sub-areas are provided for the management of incompatible materials and for health and safety considerations. A few of the areas/sub-areas located in Area 5 and Area 6 do not have adequate secondary containment volume if the maximum number of fifty-five gallon (55 gal) drums are "normal" (not lab-pack) drums. Table D-2 lists the maximum number of fifty-five gallon (55 gal) of "normal" and "lab-pack" drums that can be stored in the sub-areas located in these 2 areas.

be carried out under an appropriate hood (e.g., acids, bases, organics) that can collect and control any emissions generated (e.g., toxic mists, fumes, dusts or gases).

Cylinders that contain flammable/combustible gases will be downloaded into a container of absorbent media or solution. The carbon absorption is monitored with an HNU to ensure performance standards.

Cylinders that contain acidic/caustic material will be downloaded into an appropriate solution. The solution will be tested for pH to ensure performance standards.

Cylinders may also be weighed as transferring occurs to determine the volume of gas transferred to solution which will measure the amount of saturation the solution/media is providing.

Cylinders with inoperable valves will be drilled through the side wall of the cylinder using commercially available high pressure saddles, or with a drill passed through a packed valve on a bulkhead fitting on a secondary ASME pressure vessel. The packing around the drill bit prevents the gas from escaping and the entire process can be controlled by commercially available gas control equipment and gages.

The contaminated media, solvent or neutralized solution will be shipped off-site for approved treatment and/or disposal.

Compressed gas cylinders that are RCRA empty will be shipped off-site as scrap.

Regarding reactive materials, incoming materials that are listed on the incoming paperwork as being stabilized or are not listed on the incoming paperwork at all and are considered a reactive material may be stabilized on-site at PCI. The material's characteristics and traits will determine how it will be handled.

D-1a(3) Secondary Containment System Design and Operation: 40 CFR 270.15(a)(1), 264.175(a), 264.175(d)

The areas identified in Table D-1 for the management of containers containing free liquids, are currently provided with adequate secondary containment systems.